

REMARKS

This is a timely response submitted within the first three months after the issuance of the non-final Office Action dated August 13, 2003. Pending claims 1-15 have been rejected, and objection has been made to pending claim 16. Claims 1-10 and 12-16 have been amended, claims 11 and 17-28 have been cancelled, and new claims 29-41 submitted herein. (Claims 17-28 were previously withdrawn from consideration in response to a Restriction Requirement.) Additionally, the Examiner's notation regarding the need for formal drawings has been addressed. No new matter has been added.

Drawings

In the Office Action, the Examiner has noted that the application has been filed with informal drawings, and that formal drawings are required when the application is allowed.

In response, Applicants refer to a preliminary amendment that was filed on November 11, 2001 by Joseph J. Kaliko, submitting formal drawings. A copy of this amendment, together with the formal drawings that had been submitted, is provided herein. Accordingly, the drawings are believed to be in condition for allowance with the application.

Claim Objection

The Examiner has objected to claim 16 because it is dependent upon a rejected base claim, but is otherwise allowable. Initially, Applicant's have amended claim 1, and consequently believe that it is now in condition for allowance. (This will be discussed below in the claim rejection section.) Therefore, the objection to claim 16 is believed to be obviated. Additionally, Applicants submit new independent claim 29 which is the combination of allowable claim 16 together with the

limitations of claim 1 and intervening claims 9, 13 and 15. According to the Examiner, such a claim is allowable. Axiomatically, new claims 30-35 which are dependent upon new independent claim 29 are also believed to be allowable.

Claim Rejections - 35 U.S.C. §102 and §103

The Examiner has rejected claims 1-6, 9, 11, 12, and 14 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,702,477 to Capello et al. ("Capello"). Additionally, the Examiner has rejected claims 1-7, 9-11 and 13-15 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,871,548 to Sanders et al. ("Sanders"). Still further, the Examiner has rejected claims 1-7, 9-12 and 14 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,416,553 to White et al. ("White"). Finally, the Examiner has rejected claim 8 under 35 U.S.C. §103(a) as being obvious over Capello in view of U.S. Patent No. 5,030,238 to Nieder et al. ("Nieder").

Capello teaches an apparatus and method directed to an acetabular shell with supplemental support. This apparatus appears to have a ball socket-type structure, but does not have a substantially U-shaped bearing element configured to accept a pelvic bone such that the opposite arms of the bearing element straddle the pelvic bone.

Sanders teaches a modular acetabular reinforcement system. This system also appears to have a ball socket-type structure, but again, does not have a substantially U-shaped bearing element as described above. The two wings 20 are not part of a substantially U-shaped bearing element, and do not wind up on opposite sides of the pelvic bone once implanted in accordance with the teachings in Sanders.

White teaches a method and apparatus for providing a modular acetabular prosthesis. Similar to Capello, White discloses a ball socket-type structure, but one that does not have a substantially U-shaped bearing element configured to accept a pelvic bone therein.

Nieder teaches a hip prosthesis that has a section for straddling the pelvic bone, and discloses that the two wings of that section of the prosthesis are similarly shaped. (See Nieder Figures 1-4, 7-9, 14-15, and 17-21). Nieder also teaches that this prosthesis may have a socket (column 11, line 63 - column 12, line 9).

Currently amended claim 1 directed to a pelvic prosthesis, in addition to calling out a ball socket, further recites that the first wing of the prosthesis is substantially taller than the second wing of the prosthesis. These elements are not found in any one of the Capello, Sanders, White or Nieder references, either alone or in combination. Applicants submit that the prior art does not teach all the elements of amended claim 1. Consequently, claim 1 is now believed to be in condition for allowance. Axiomatically, claims 2-10 and 12-16 are also believed to be allowable.

In view of Applicants' position that none of the references either alone or in combination teach all the elements of amended claim 1, the obviousness rejection of claim 8 over Capello in view of Nieder is believed to be obviated.

New independent claim 36 is also directed to a pelvic prosthesis, and in addition to calling out a substantially U-shaped bearing element and a ball socket, recites that the first wing of the prosthesis is substantially parallel to the second wing of the prosthesis. Once again, all the elements of claim 36 are not found in any one of the Capello, Sanders, White or Nieder references, either alone or in combination. Applicants,

therefore, submit that the prior art does not teach all the elements of new independent claim 36. Consequently, claim 36 is believed to be in condition for allowance. Axiomatically, claims 37-41 are also believed to be allowable.

Conclusion

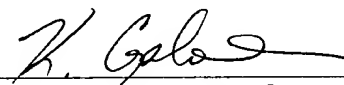
As it is believed that all of the rejections and objections set forth in the Official Action have been fully met, favorable reconsideration and allowance of this application are earnestly solicited. Specifically, claims 1-10, 12-16, and 29-41 are believed to be in condition for allowance. No new matter has been added.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: November 12, 2003

Respectfully submitted,

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